

Case Details

Case Details

National ID	RÅ 2007 ref. 34
Medlemsstat	Sverige
Common Name	link
Decision type	Administrative decision in appeal
Decision date	18/04/2007
Domstol	Högsta förvaltningsdomstolen (Regeringsrätten)
Ämne	
Kärande	Sembo Semesterbostäder AB
Svarande	Kammarkollegiet
Nyckelord	accommodation, package travel, transposition

Directive Articles

Package Travel Directive, [Article 2, 1.](#) Package Travel Directive, [Article 2, 1., \(a\)](#) Package Travel Directive, [Article 2, 1., \(b\)](#) Package Travel Directive, [Article 2, 1., \(c\)](#) Package Travel Directive, [Article 2, 1.](#) Package Travel Directive, [Article 7](#)

Headnote

The arrangement of offering rental of holiday accommodation abroad and brokering of ferry tickets are of such nature, and similar with a package, that security for said package must be provided.

Facts

The plaintiff was the intermediary for transportation by ferry between Sweden and Denmark and Sweden and Germany in combination with accommodation where the plaintiff rented out holiday homes abroad for its customers. The defendant (the Legal, Financial and Public Procurement Agency) decided that the plaintiff should provide security according to the Travel Guarantees Act.

The plaintiff appealed to the defendant's decision to the County Administrative Court, which sustained the appeal. The defendant appealed the County Administrative Court's decision to the Administrative Court of Appeal, which reversed the County Administrative Court's decisions and approved the decision made by the defendant. The plaintiff then appealed to the Supreme Administrative Court, which rejected the appeal and referred to the Administrative Court of Appeal's decision.

Legal issue

Is an arrangement of the offering of rental of holiday accommodation abroad and brokering of ferry tickets of such nature, and similar with a package, that security for said package must be provided?

Beslut

The court makes the same assessment as the Administrative Court of Appeal. (The following reasoning is thus the reasoning of the Administrative Court of Appeal).

The court firstly discusses the preparatory work to the Act on Package Tours and finds, inter alia, that the

combination of separate arrangements should appear as a unit, in the way that it is natural to hold the organizer responsible for the combination's parts and for the whole, in order for the combination of separate arrangements to be considered as a package under the Act on Package Tours. A further requisite for the Act on Package Tours to be applicable is that the arrangements are seen as a unit because of the work and planning put into it by the organizer.

The traveller may in part decide over the separate arrangements him/herself. This entails that the level of planning and organizing from the plaintiff is lower than otherwise. The court however states that the plaintiff has chosen the variety of accommodation and ferry transportation choices available to the traveller, and thus, has put some work when making these choices.

In the plaintiff's catalogue, the customer is encouraged to book the ferry transportation through the company. The court finds that the ferry trips appear to have been selected with the intention that they should be suitable to combine with the accommodation provided by the plaintiff. Hence, the transportation services and the accommodation services appear as a unit.

In terms of the ferry transportation, the plaintiff is however not a party to the contract with the traveller.

Considering the above, the court finds that it is uncertain whether or not the requirements of an arrangement are met. Furthermore, only certain parts of the services included in the package are marketed to a single price. The court finds, that travels that are not sold or marketed to a single price, and neither to separate prices which are connected, do not constitute packages under the Act on Package Tours.

However, the court finds that the Travel Guarantees Act requires security also from organizers whose travel arrangements are separate although in whole shows a substantial similarity to a packages under the Act on Package Tours.

Despite the above, the court thus finds that the arrangement of intermediating ferry trips and selling accommodation is, in this case, of such nature and has such similarity to packages under the Act on Package Tours, that the Plaintiff shall provide security under the Travel Guarantees Act.

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Result

The court dismissed the appeal and upheld the Administrative Court of Appeal's decisions in favour of the defendant.